SINGLE BENCH

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

WRIT PETITION No.4324/2005

PETITIONER : Aseem Kumar Mishra, aged about 50 years, S/o. Late Shri B.L.Mishra, Accounts Asstt. Grade-I, District Treasury Durg, R/o. H.No.275 Jawahar Nagar, Durg (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh, Through Secretary, Finance Department, "Mantralaya", D.K.S.Bhawan, Raipur (C.G.).
2. Director, Accounts, Treasuries & Pension, Shankar Nagar, Raipur (C.G.).
3. Joint Director, Accounts, Treasuries & Pension 'Ghasdi Chowk" Raipur (C.G.).

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS.

(30)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. No. 4324/2005 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

06.10.2005

Shri R.N. Jha, counsel for the petitioner.
Shri Vivek Sharma, counsel for the State on advance copy.

Heard.

By way of this writ petition filed under Article 226/227 of the Constitution of India, the petitioner has challenged the legality of impugned order dated 4.8.2005 (Annexure-P/1) by which the petitioner who was promoted to the post of Account Assistant Grade-I from the post of Account Assistant Grade-II has been transferred from Durg to Raipur.

It is stated by learned counsel for the petitioner that the petitioner was working at Durg since last more than 25 years. It is not disputed in this case that the post held by the petitioner is a transferable post

The Apex Court while dealing with the matter of ***Kendriya Vidyalaya Sangathan –V- Damodar Prasad Pandey, 2004 AIR SCW 5563*** referring to the various decisions has observed vide para 4 as follows:

> "Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principles governing the transfer (See ***Ambani Kanta Ray Vs. State of Orrissa).*** Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (See ***Union of India Vs. S.L. Abbas).*** Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In ***Union of***

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(31)

मामला क्रमांक W.P.No.4324/2005 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Inida & others Vs. Janardan Debanath & another, it was observed as follows:

> "No Government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of *mala-fide* exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employee/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. Vs. Shri Bhagwan.*"

The transfer is an incidence of service and nobody working on the transferable post can claim for posting at a particular place.

Considering the facts and circumstances of the case, particularly considering the circumstance that the petitioner has been transferred from Durg to Raipur after lapse of 25 years and *mala fides* or violation of any statutory rule has been attributed in this case, I am of the opinion that present is not a fit case in which the order requires interference by this Court.

The petition is dismissed at this stage.

Sd/-
Sunil Kumar Sinha
Judge

Vakil

18/10/05 10.1.06